

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(114)

CRM-M-27140-2015 (O&M)

Decided on: April 07, 2016.

Davinder Singh

.... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. J.S. Bedi, Sr. Advocate, with
Mr. Harpreet Multani, Advocate, for the petitioner.

Ms. Harpreet Kaur Athwal, DAG, Punjab.

Mr. Anupam Singla, Advocate, for the complainant.

M.M.S. BEDI, J (ORAL)

Petitioner seeks concession of regular bail in a case registered at the instance of Senior District Manager, Punjab Agro Food Corporation Ltd, Bhatinda alleging that the petitioner, who is owner of M/s Harleen Rice Mill, had been entrusted with 61295 bags of paddy for custom milling. Only 1147 bags were milled and rice was handed over to Food Corporation of India. On physical verification, 60148 bags of rice were found short. Calculating the loss and penalty, allegation was leveled against the petitioner that he has embezzled more than 3.70 crores of rupees in connivance with his co-accused Harvinder Singh an inspector of Punjab Agro Food Corporation Ltd. His co-accused being an official of Punjab Agro Food Corporation Ltd, the petitioner has also been facing trial before the Special Judge while he is alleged to have misappropriated above said amount by committing offence of breach of trust.

The earlier application for bail filed by the petitioner was dismissed by a Coordinate Bench of this Court vide order dated 25.11.2014.

The petitioner opted to approach the Apex Court but his application was dismissed by the Apex Court a year ago on 30.03.2015 with an implied direction to the trial Court to make earnest endeavour to finish the trial within a period of three months. It was also observed by the Apex Court that in case the trial does not make substantial progress in next three months, for reasons, not attributable to the petitioner, he would be at liberty to apply for bail. On the basis of said observations, the petitioner approached the trial Court for grant of bail, but his bail application has been dismissed on 17.07.2015.

On the last date of hearing, status of the trial was called for. Trial Court has reported that out of 33 prosecution witnesses, 14 witnesses stand examined.

On the instructions of ASI Inderjit Singh, learned State counsel informs that 22 witnesses stand examined as on today.

The petitioner has been in custody for the last two years and seven months i.e. with effect from 11.09.2013. Co-accused of the petitioner had been granted concession of bail under Section 167 (2) Cr.P.C, a long time back. The trial has taken an ordinate long duration for completion without any delay attributable to the petitioner. The petitioner has a constitutional right of expeditious disposal. Chance of trial being concluded in near future is remote. Award of money has been passed against the petitioner.

No doubt, the offence qua the petitioner is apparently of serious nature but following the observations of the Apex Court in *Siddharam Satlingappa Mhetre Vs. State of Maharashtra, 2011 (1) R.C.R. (Criminal) 126* and *Sanjay Chandra Vs. SBI, 2011 (6) Recent Apex Judgment 191*, I am of the opinion that the liability of the petitioner being combination of civil and criminal liability; he having already been penalized by the Award passed against him by the Arbitrator; he having suffered detention for a long period as mentioned above and chances of tampering with the evidence being remote, he can be granted concession of bail.

Petition is allowed. Petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the trial Court subject to the condition that the petitioner will not leave India without the permission of the Court and will surrender his passport with the trial Court. In case, he does not possess passport, he would be required to furnish an affidavit to that effect before the trial Court.

(M.M.S. BEDI)
JUDGE

April 07, 2016
harsha